IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3333 OF 2006

Smt. Manorama Gangaram Chavan .... Applicant.

V/s

Sau. Pushpa S. Telang & Anr. .... Respondents.

Mr. Sandesh D. Patil for the applicant.

Mr. Mahendra Mohalkar for Respondent No.1.

Mrs. M.M. Deshmukh, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 28th September, 2007

P.C.:

1. Heard the learned Counsel for the applicant and the learned Counsel for Respondent No.1.

2. Applicant is seeking leave of this Court to file an appeal, challenging the judgment and order passed by the 7th J.M.F.C., Thane acquitting the accused - respondent No.1 herein of the offence punishable under section 138 of the Negotiable Instruments Act.

3. The learned Counsel appearing on behalf of the applicant has filed a compilation of notes of evidence. It is submitted that the trial court erred in dismissing the complaint of the applicant herein. He submitted that the

trial court, while recording her evidence, has noted that the witness was threatened by the accused outside the court and this fact was stated by the complainant in her cross-examination. He submitted that the admissions which are given by the complainant were under duress. He submitted that there is no evidence to suggest that the amount which was due and payable was towards money lending transaction or that the accused had given the cheque as and by way of security for the loan which was advanced by the applicant herein.

4. It is not possible to accept the said submissions made by the learned Counsel for the applicant. I have perused the notes of evidence. In cross-examination, the complainant has admitted that she had demanded a cheque from the accused as a security. Further, she has admitted that she did not obtain anything in writing for the alleged payment of Rs 50,000/- which was made to the accused by the complainant. Further, she has also admitted that she did not have any proof to show that the said amount was paid to the accused. In my view, trial court has correctly assessed the evidence and has dismissed the complaint. No case is made out for grant of leave. Leave is refused. Application is accordingly dismissed.

(V.M. KANADE, J.)